

DRAFT—NO LEGAL VALUE

Minutes

Board of Adjustment Meeting

February 18, 2021

As Chair of the Board of Adjustment of the Town of Strafford, Ashley Rowe opened the meeting by stating that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

The Chair then summarized the following announcements: There is no physical location to observe and listen contemporaneously to this hearing, which was authorized pursuant to the Governor's Emergency Order. The Board is utilizing Google Meet for this electronic hearing. In accordance with the Emergency Order, I (the Chair) am confirming that we (the Board of Adjustment) are:

- a) providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means. We are using the Google Meet platform for this public meeting. All members of the Planning Board are able to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing +1 650-667-3192 using the assigned meeting code or by clicking on the website address: meet.google.com/iwk-zvef-yen
- b) providing public notice of the necessary information for accessing this meeting. We previously gave notice to the public of the necessary information for accessing this meeting, including how to access the meeting via Google Meet or telephonically. Instructions were posted on the website of the Town of Strafford at www.strafford.nh.gov. The application documents discussed tonight were made available to the public at the Town of Strafford Land Use Office.
- c) providing a mechanism for the public to alert the public body during the meeting if there are problems with public access: If anybody has a problem they were directed to call or email eevans.strafford.nh@gmail.com.
- d) adjourning the meeting if the public is unable to access the meeting: In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

After waiting for attendees to sign on, the Chair opened the meeting at 7:05 PM by taking roll call attendance. Members present were Ashley Rowe, Chairman, Lynn Sweet, Terry Hyland, Aaron Leff, and Tim Reed and Jeffrey Sanita, Alternate members. All votes will be roll call votes. Mr. Rowe noted that the next regular meeting of the Board will be Thursday, March 18, 2021. The Chairman noted that one regular member is missing this evening and designated Tim Reed as a voting member for this meeting. A number of interested parties for Cases Number 425 and 426 were present. The Building Inspector was also present.

Lynn Sweet, Vice-Chair, then addressed the Chairman and asked to speak ahead of the Board turning to the first item on the agenda. Ms. Sweet advised that she wanted to move up consideration of Case Number 426, the second item on the agenda for this evening. Case Number 426 is the application of Robert and Priscilla Wilcox, Lake Shore Drive (Tax Map 35, Lot 4). Bob Wilcox was present. Ashley Rowe recused himself from this discussion. Ms. Sweet read an email from Atty. Phoenix, representing the applicants. Atty. Phoenix concluded his remarks by asking that review of this application be postponed to the next meeting in order to allow the applicants time to prepare a response to two documents that have very recently been provided in writing for the files in advance of their formal presentation at this meeting. Lynn Sweet then

moved to accept Atty. Phoenix's request and set the next meeting for Thursday, March 18, 2021 at 7PM with access by Google Meet or the Strafford Town Hall. Tim Reed seconded the motion, there was no further discussion, and the Vice-Chair called the vote. The vote went as follows: Terry Hyland—aye, Aaron Leff—aye, Tim Reed—aye, Lynn Sweet—aye. The motion carried by unanimous vote. The Vice-Chairman advised that the application of Robert and Priscilla Wilcox has now been postponed to the March 18, 2021 meeting, and turned the meeting back to the Chairman. The Chairman called on the first application scheduled for this evening, read the summary notice for the application and invited Tobin Farwell to make his presentation.

Case Number #425

Tobin Farwell, Farwell Engineering Services, is requesting a Variance to Article 1.4.1, Sections B and C and a Special Exception under Article 1.7.1 of the Zoning and Land Use Ordinances in order to allow the demolition of an existing non-conforming seasonal structure located on a non-conforming lot near the shore of Bow Lake and build a new home in a different location on the property, which is an expansion of use of a non-conforming property. Both the existing seasonal camp and the new proposed 2-story 2-bedroom structure come closer to the northerly side boundary than current ordinances require. The new home and deck would come within 14.7 feet of the northerly side boundary where up to a 40 foot setback would be required because the side boundary runs along a Right-of-Way accessing land to the rear. The new home would come within 22.0 feet of the southwesterly boundary, where 25 feet is currently required. Setbacks to wetlands and the Province Road would be met.

(Owners: Sharon St. Onge and Joseph Barrett, 970 Province Road, Tax Map 25, Lot 4)

Tobin Farwell of Farwell Engineering Services, petitioner, presented the application, accompanied by Michael Whitcher. Corey Colwell, Steve Hodges, Stephen Van Beaver, and Don Stowell, abutters, were present. A number of other interested parties were also present.

Mr. Farwell explained the proposal. Ms. St. Onge and Mr. Barrett hope to demolish the existing seasonal camp and construct a new home on the lot. They have settled on a location for the new home that is close to the location of the existing non-conforming camp, but which will create a new encroachment into the rear setback at the back corner. On the front toward the ROW to the rear, the new structure will come within 14.7 feet of the boundary at the closest point, which is more than 5 feet more than the closest point of encroachment of the existing; the existing structure will be completely removed. They are now maintaining a 50 foot setback to the wetlands as shown on this plan, which were delineated by Marc Jacobs. They will submit a design for a septic disposal system later. There were no questions from the Board and the Chairman suggested that Mr. Farwell continue and address the criteria for variance.

Mr. Farwell addressed the criteria for variance in order. 1) The proposal will not be contrary to the public interest because they have worked with the abutters regarding the location and part of the agreement is that they are creating a vegetated buffer along the southwesterly boundary. There is no public damage, he said. 2) The proposal is not contrary to the spirit of the ordinance because they are maintaining a buffer on the southwest side, this is a residential lot and they will be maintaining residential use, and the existing structure is non-conforming and they believe their proposal is more nearly conforming in that they have increased the setback to the closest point on the front boundary with the ROW to the rear. 3) Substantial justice would be done because they are proposing a new residence in a residential district; this is a use allowed by zoning. 4) The new home will have a higher value and will increase the value of the neighborhood. 5) The proposed use is reasonable because it is more nearly conforming to the closest point and the special conditions of the property are the narrowness of the lot and the jog to the northwest along the westerly property boundary. Importantly, the proposed new encroachment into the rear setback is needed to allow the construction of a ramp for handicap access, so that the owners have full use of the property.

Noting that he has a couple of procedural notes, the Chairman then opened discussion to the public. Stephen Van Beaver said that he is an abutter and supports the plan. Steve Hodges, also an abutter, addressed the meeting and said that the applicants and abutters have all worked hard and while there is still

a discrepancy on wetlands, they are all in agreement on the location of the house and what it will look like. However, they do have watershed problems, he said, noting that water puddles on the road and any additional water from the new house will go across into the road. He said that they need to know about the proposed driveway and their plans for stormwater. He noted that he has submitted photos for the file and also noted the 2006 application from David Whitcher on behalf of the Furlongs, the previous owners, which shows a larger wetlands area extending down the westerly boundary. Mr. Hodges said that he believes that this needs to be addressed before they get into the project and there is water flowing across the road. He said that is his biggest concern. They have worked hard to satisfy the abutters on the house itself and have worked out the buffer with Stowells, but he thinks the remaining issue is the water. He said that he believes that Stephen Van Beaver agrees. Finally he noted that the 75 foot proposed well radius on the plans comes close to his septic system leach field. Ashley Rowe addressed this last point, noting that NH DES would require a well-release form, noting that the liability would be on the property owners and not a concern for Mr. Hodges.

Corey Colwell then spoke, noting that he is the abutter directly to the east. He said that he commends the owners for working with the abutters and said that they have worked well in addressing many of their concerns. The lot is very small, he noted, and they do not object to the proposed placement of the house. But, he advised that the project will create a considerable increase in impervious surface on the lot. Mr. Colwell said that he would like to propose that the applicants be required to come up with a stormwater management plan to demonstrate to the abutters that there will be no increase in water coming off the lot after construction and that there will be no increase in the water going into the culvert going into Bow Lake. He noted that there is a significant increase in the impervious surface coverage of the lot from the new larger rooftop and driveway and he said that this needs to be addressed. Mr. Rowe then turned to close the public hearing. Steve Hodges commented once more, saying that the Board has the final say and that they would appreciate it if this was looked into.

The Chairman then closed the hearing and asked Board members if they have any questions. Tim Reed asked about the driveway. Mr. Farwell indicated that it would be a gravel surface; the driveway location is indicated by dashed lines on the plan. Mr. Rowe then turned to his own procedural questions, asking if the plans are both stamped and signed. Marc Jacobs did stamp the plans, there is no signature yet for the surveyor. Mr. Rowe said that he would want any approval contingent on signed stamped plans and that the Board would like paper copies for the files. Mr. Rowe then indicated that he wants the no-cut buffer easement with Stowells to show on the plans as he believes it is close to the house. Mr. Farwell agreed with both items. The Chairman then turned to the water question. He said that he has seen the photos and the previous plans and noted that neither wetlands scientist is here this evening but said that he does know that there is a problem with water with storm events. He said that he would look for a stormwater plan to make sure that the water is dealt with. Lynn Sweet agreed; there were no further questions.

Michael Whitcher and Tobin Farwell then noted the standing water issue. Tobin Farwell said that he could design a swale system to direct flow to the catch basin and then to the culvert to Bow Lake. Ashley Rowe said that the Board is looking for a plan addressing the additional impervious surface. Michael Whitcher said that it is all about managing the water. Mr. Rowe suggested that they design something that would satisfy the Shoreland rules. Lynn Sweet noted that this is a state road and questions about the culvert should be addressed to NH DOT. Tobin Farwell noted that they will need to apply for both septic system design approval and a Shoreland Permit as part of this lot falls within the 250 foot Shoreland zone. Ashley Rowe asked if the intent was for year-round use, and Mr. Farwell said yes, and that he does not anticipate any problems with getting approval from the NH DES subsurface program.

The Chairman then addressed the Board and said that he would take a motion, noting the various conditions mentioned above, including signed surveyor and wetlands seals, graphically depicting the buffer with the neighbor, as well as subsurface approval and also a stormwater management plan and Shoreland permitting. Tobin Farwell asked if the stormwater plan needed to be a separate plan, and Mr. Rowe indicated that it does not. Lynn Sweet then made the following motion, seconded by Terry Hyland:

To approve a Variance to Article 1.4.1, sections B and C to allow the construction of a new replacement structure as shown on the plans submitted for this meeting, with the conditions listed below.

- 1) Approval is conditional upon submission of final copies of the plans with signed seals of the surveyor and certified wetlands scientist;
- 2) The no-cut buffer easement along the southwesterly boundary shall be graphically depicted on the plans;
- 3) Receipt of State of New Hampshire DES Subsurface approval of the new septic disposal system;
- 4) A plan for stormwater management;
- 5) Receipt of an approved New Hampshire DES Shoreland Permit for the construction project.

There were no additional comments and the Chairman called the vote. The vote went as follows: Terry Hyland—aye, Aaron Leff—aye, Tim Reed—aye, and Lynn Sweet—aye. The Special Exception was approved by unanimous vote.

The Chairman then asked Mr. Farwell if he had any additional comments regarding the application for Special Exception. He did not. Tim Reed asked why they need the Special Exception, and Lynn Sweet asked if it was required in order to demolish the existing structure. Mr. Rowe indicated yes and said that he would look for a motion on the request for Special Exception. Tim Reed then made the following motion, seconded by Lynn Sweet:

To approve a Special Exception in accordance with Article 1.7.1 to allow the demolition of an existing non-conforming structure and construction of a new replacement structure.

There were no additional comments and the Chairman called the vote. The vote went as follows: Terry Hyland—aye, Aaron Leff—aye, Tim Reed—aye, and Lynn Sweet—aye. The Special Exception was approved by unanimous vote.

There being no further business, Lynn Sweet made a motion to adjourn the meeting. Tim Reed seconded the motion. There was no further discussion and the vote went as follows: The vote went as follows: Terry Hyland—aye, Aaron Leff—aye, Tim Reed—aye, and Lynn Sweet—aye. The meeting adjourned at 7:47 PM.